

1 reference under the first sentence of Section 157(d).

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3 **I. Mandatory Withdrawal**

4 The Debtor argues that withdrawal is mandatory because his case requires consideration of
5 Title 11 matter and involves “issues requiring a good interpretation of the due process clause of the
6 5th Amendment.” [Motion at 4.] As set forth above, Section 157(d) requires the district court to
7 withdraw the reference to the bankruptcy court of any matter which requires “consideration of both
8 title 11 and other laws of the United States regulating organizations or activities affecting interstate
9 commerce.” The Debtor must show: (1) that the adversary proceedings require “material
10 consideration of non-bankruptcy federal law,” and (2) that the non-bankruptcy federal law to be
11 considered “regulat[es] organizations or activities affecting interstate commerce.” Security Farms
12 v. International Brotherhood, 124 F.3d 999, 1008 (9th Cir.1997); In Re Roman Catholic Bishop of
13 San Diego, 2007 WL 2406899, *1-2 (S.D. Cal. August 20, 2007).

14 Congress intended the mandatory withdrawal provision to be construed narrowly so as not
15 to create an “escape hatch” by which most bankruptcy matters could easily be removed to the district
16 court. In re Vicars Ins. Agency, Inc., 96 F.3d 949, 952 (7th Cir. 1996). “[S]ending every proceeding
17 that required passing ‘consideration’ of non-bankruptcy law back to the district court would
18 ‘eviscerate much of the work of the bankruptcy courts.’ ” Id. (quoting In re Adelphi Institute, Inc.,
19 112 B.R. 534, 536 (S.D.N.Y. 1990)); see also In re American Freight System, Inc., 150 B.R. 790,
20 793 (D. Kan. 1993) (“consideration of the non-Code law must entail more than its routine
21 application to the facts”). As a result, the majority of courts require that “the issues in question
22 require more than the mere application of well-settled or ‘hornbook’ non-bankruptcy law;
23 ‘significant interpretation of the non-Code statute must be required.’ ” In re Vicars Ins. Agency,
24 Inc., 96 F.3d at 953; see also Lifemark Hospitals v. Liljeberg Enterprises, Inc., 161 B.R. 21, 24 (E.D.
25 La. 1993).

26 Here, the Debtor does not raise issues that require withdrawal of the reference under the
27 second sentence of Section 157(d). The Court is not persuaded that resolution of the Debtor’s Fifth
28 Amendment claims will require “more than the mere application of well-settled or ‘hornbook’

1 non-bankruptcy law.” In re Vicars Ins. Agency, 96 F.3d at 953. Furthermore, the Court is not
2 persuaded that his case involves an interpretation of federal laws “regulating organizations or
3 activities affecting interstate commerce.” See In Re Roman Catholic Bishop of San Diego, 2007
4 WL 2406899 at *2. Accordingly, the Court finds it is not required to withdraw reference under the
5 second sentence of Section 157(d).

6 7 **II. Discretionary Withdrawal of Reference**

8 In the alternative, the debtor argues that the Court should exercise its discretion to withdraw
9 reference due to Judge Meyers’ alleged bias. Specifically, debtor argues:

10 The ex parte contacts and close personal and professional relationship of [J]udge
11 Meyers with the defendants in the adversary case . . . ha[s] influenced [J]udge
12 Meyers’ ability to render fair, unbiased, and impartial decisions in Petitioner’s
chapter 7 case and there is no possible way and outside observer can know how
13 much information or contact or for how long [J]udge Meyers has had with those
defendants.

14 [Motion at 3.]


15 The Ninth Circuit has held that “[i]n determining whether cause [for permissive withdrawal]
16 exists, a district court should consider the efficient use of judicial resources, delay and costs to the
17 parties, uniformity of bankruptcy administration, the prevention of forum shopping, and other related
18 factors.” Security Farms, 124 F.3d at 1008. In this case, Debtor provides no legitimate basis for his
19 allegations of bias. Moreover, the Court finds that judicial efficiency, avoidance of undue delay and
20 costs, uniformity of bankruptcy administration, and the prevention of forum shopping all weigh in
21 favor of leaving the adversary actions in the Bankruptcy Court at this time. Therefore, the Court finds
22 it is not appropriate to withdraw reference under the first sentence of Section 157(d).

1 **CONCLUSION**

2 For the foregoing reasons, the Court **DENIES** Debtor's motion to withdraw reference. The
3 Court **ORDERS** that the Chapter 7 case and the adversary proceedings remain before the
4 Bankruptcy Court and **DIRECTS** the Clerk of the Court to close this action.¹

5 IT IS SO ORDERED.

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7 DATED: June 24, 2008

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9 Honorable Janis L. Sammartino
10 United States District Judge
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24 ¹ In conjunction with this motion, Debtor also filed a motion to proceed in forma pauperis, a
25 motion to stay proceedings in this case pending the ruling of the Court on the motion to withdraw
reference, and an objection to Judge Meyers decision denying Debtor's motion to disqualify Judge
Meyers and to reconsider the order to show cause.

26 This case is now closed; therefore, the objection and the additional motions are **DENIED** as
27 moot. See Official Comm. of Unsecured Creditors v. Bryan (In re Legacy Estate Group, LLC), 2007
28 U.S. Dist. LEXIS 84747, *14 (N.D. Cal. Oct. 26, 2007) (denying motion to withdraw reference,
ordering clerk to close the case, and terminating all other pending motions); Stratton v. Vita Bella
Group Homes, Inc., 2007 U.S. Dist. LEXIS 40562, *13 (E.D. Cal. May 24, 2007) (denying motion
to withdraw reference and ordering clerk to close the case).